

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY	)	MDL NO. 1456
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
	)	
	)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO	)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>	)	Chief Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc.,</i>	)	
No. 06-CV-11337-PBS	)	

**ABBOTT LABORATORIES, INC.'S MOTION  
TO COMPEL PRODUCTION OF *EX PARTE* FILINGS**

Defendant Abbott Laboratories, Inc. ("Abbott") respectfully seeks an Order compelling Plaintiff the United States of America ("United States") to produce to Abbott all documents, filings, and other *ex parte* communications in the above-captioned matter, including all motions, orders, and affidavits that were filed under seal in the Southern District of Florida during the eleven (11) years from the filing of the underlying *qui tam* and the United States' decision to intervene and sever its claims as to Abbott. Because the United States has intervened against Abbott, there is no statutory basis to withhold these filings from Abbott, and the strong presumption in favor of open and fair judicial proceedings governs Abbott's access to the Government's *ex parte* filings.

To the extent the United States has legitimate concerns regarding confidential material in the case file, Abbott's Proposed Order (attached as Ex. A) would allow the United States to redact the names and identifying information of other defendants still under investigation and require Abbott to treat as confidential any documents so designated by the United States.

The arguments and authority supporting these requests are set out in the accompanying memorandum.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1, Abbott hereby requests oral argument on this Motion.

Dated: December 1, 2006

Respectfully submitted,

/s/ R. Christopher Cook

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